

SENATE BILL 244

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Q7

2001 Regular Session
11r1140
CF 11r1141

By: **Senators Miller and Hoffman**
Introduced and read first time: January 25, 2001
Assigned to: Budget and Taxation

Committee Report: Favorable
Senate action: Adopted
Read second time: February 15, 2001

CHAPTER _____

1 AN ACT concerning

2 **Inheritance Tax - Corrective**

3 FOR the purpose of clarifying and correcting certain provisions of the inheritance tax
4 law made obsolete as a result of the exemption from the inheritance tax for
5 certain relatives of a decedent and the repeal of the lineal inheritance tax rate;
6 clarifying the applicability of the inheritance tax under certain circumstances
7 when property passes to spouses as tenants by the entireties; clarifying the
8 applicability of the inheritance tax under certain circumstances when an
9 application to prepay the tax on a subsequent interest is filed; repealing certain
10 provisions relating to an elective inheritance tax exemption for certain farmland
11 passing to certain relatives of a decedent; providing for the application of this
12 Act; and generally relating to clarifying and correcting certain provisions of the
13 inheritance tax law made obsolete as a result of the exemption from the
14 inheritance tax for certain relatives of a decedent and the repeal of the lineal
15 inheritance tax rate.

16 BY repealing and reenacting, with amendments,
17 Article - Tax - General
18 Section 7-209(c), 7-210(d), 7-211, and 7-221
19 Annotated Code of Maryland
20 (1997 Replacement Volume and 2000 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Tax - General

2 7-209.

3 (c) (1) If an absolute interest in property passes from a decedent to 2 or
4 more persons as tenants by the entireties:

5 (i) the value of the interest that passes to each tenant is
6 determined by dividing the value of the entire value of the absolute interest in the
7 property by the number of tenants to whom the absolute interest in the property
8 passes; and

9 (ii) the tenants by the entireties are jointly and severally liable for
10 the entire inheritance tax.

11 (2) When property passes from a decedent to a husband and wife as
12 tenants by the entireties and only 1 spouse is entitled to the [lineal inheritance tax
13 rate under § 7-204(c)] EXEMPTION UNDER § 7-203(B) of this subtitle, [that rate] THE
14 EXEMPTION applies to 50% of the value of the property, and the [collateral tax rate
15 under § 7-204(b) of this subtitle] INHERITANCE TAX applies to the other 50%.

16 7-210.

17 (d) (1) If the [collateral inheritance tax rate under § 7-204(b) of this
18 subtitle] INHERITANCE TAX applies to 1 OR MORE of the persons by or for whom an
19 application to prepay the inheritance tax is filed under § 7-219 of this subtitle and
20 the [lineal tax rate under § 7-204(c)] EXEMPTION UNDER § 7-203(B) of this subtitle
21 applies to others, [the higher tax rate shall be used to determine the inheritance tax
22 due on] THE INHERITANCE TAX APPLIES TO the subsequent interest.

23 (2) (i) On application of a party in interest, the inheritance tax due
24 may be apportioned among the persons by or for whom the application to prepay the
25 inheritance tax is filed.

26 (ii) After the apportionment, each of those persons is responsible
27 only for the amount of the inheritance tax apportioned to that person.

28 7-211.

29 (a) The person responsible for paying the inheritance tax may elect to value
30 real property, for purposes of the inheritance tax:

31 (1) at its most recent real property assessment plus any inflation
32 allowance if, for the 5 years immediately before the date of the death of the decedent,
33 the real property qualifies under § 8-209 or § 8-211 of the Tax - Property Article as
34 farmland or woodland; or

35 (2) based on its actual use on the date of the decedent's death if the real
36 property qualifies as National Register property by a listing in the National Register
37 of Historic Places, whether as a separate property or as a part of a listed district.

1 [(b) If real property that passes from a decedent to a person described in §
2 7-204(c)(1) or (2) of this subtitle has qualified under § 8-209 of the Tax - Property
3 Article as farmland for the 5 years immediately before the date of the death of the
4 decedent and the farmland consists of at least 50 acres, the person responsible for
5 paying the inheritance tax may elect that the real property be exempt from the
6 inheritance tax, subject to disqualification under § 7-221 of this subtitle.]

7 [(c) (B) (1) To elect a valuation [or exemption] under subsection (a) [or
8 (b)] of this section, the person responsible for paying the inheritance tax shall file
9 with the register a statement that:

10 (i) contains a written election of a valuation under subsection (a) of
11 this section [or of exemption under subsection (b) of this section], in the form and
12 manner that the Comptroller requires; and

13 (ii) describes the qualifying real property in reasonable detail,
14 including its fair market value.

15 (2) The statement shall be filed:

16 (i) with the administration account that affects the distribution of
17 the qualifying real property; or

18 (ii) if the qualifying real property is not subject to formal
19 administration, with the report or inventory required under § 7-224 or § 7-225(c) or
20 (d) of this subtitle.

21 7-221.

22 (a) (1) [Subject to subsection (g) of this section, if,] IF within 15 years after
23 the date of a decedent's death, property valued [or exempt] under § 7-211 of this
24 subtitle is disqualified for the special valuation [or exemption], additional
25 inheritance tax is due in the amount of the difference between the inheritance tax
26 paid and the inheritance tax that would have been paid if the election under § 7-211
27 of this subtitle had not been made.

28 (2) Property is disqualified for the special valuation [or exemption]
29 under § 7-211 of this subtitle, if:

30 (i) the property qualified for valuation as National Register
31 property and is removed from the National Register of Historic Places; or

32 (ii) the property qualified for valuation [or exemption] as farmland
33 or woodland and ceases to qualify for farmland or woodland assessment under §
34 8-209 or § 8-211 of the Tax - Property Article.

35 (3) The Department or the Maryland Historical Trust shall report to the
36 Comptroller and the register any event that causes property to be disqualified for
37 special valuation [or exemption].

1 (b) (1) The property owner may submit to the appropriate register an
2 application for a certificate that a disqualifying event has not occurred before a date
3 that is stated in the certificate.

4 (2) The application shall:

5 (i) be made on the form and in the manner that the Comptroller
6 requires; and

7 (ii) include appropriate certifications of the property owner.

8 (c) (1) After receiving the application, the register shall inquire about the
9 property with:

10 (i) the Department, for farmland or woodland property; or

11 (ii) the Maryland Historical Trust, for property listed on the
12 National Register of Historic Places.

13 (2) The Department or Maryland Historical Trust shall report to the
14 register about the property.

15 (d) If, based on the certifications of the property owner and the report under
16 subsection (c)(2) of this section, the register determines that a disqualifying event has
17 not occurred, the register shall issue a certificate of nondisqualification, on the form
18 and in the manner that the Comptroller determines.

19 (e) The date stated in a certificate of nondisqualification shall be:

20 (1) on or after the application date; and

21 (2) as close as possible to the date on which the certificate is issued.

22 (f) A grantee of the property and the successors or assigns of the grantee may
23 rely conclusively on the certificate issued under subsection (d) of this section.

24 [(g) If property exempt under § 7-211(b) of this subtitle is disqualified for the
25 exemption within 5 years after the date of a decedent's death, in addition to the
26 inheritance tax due under subsection (a) of this section, the tax collector shall assess:

27 (1) interest under § 13-601 of this title from the date the inheritance tax
28 originally would have been due if the election under § 7-211(b) of this subtitle had not
29 been made; and

30 (2) a penalty under § 13-701 of this title.]

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2001, and shall be applicable to all decedents dying on or after July 1, 2000.

